

Whether it is part of your body or disease or illness, you are stuck.

Next year it is excluded.

Let me tell you the lengths to which they have gone. When this woman, who is now with her husband in the private health insurance market, goes in for a mammogram and they say, Where should we send the results, she says: Send them to me personally. I don't want them to go to a doctor because if they become part of my medical record, it will be used against me when we apply for health insurance next year.

That is what it has come to and that is what people are facing across America—outrageous copayments, increases in premiums they cannot afford, and less and less coverage every year.

What have we done about it? What has this Government done to stand behind these businesses and labor unions and families? Absolutely nothing.

That is unacceptable. If we really want to address an issue that business cares about and labor cares about, this is the issue.

If you are concerned about competitiveness, consider this: The cost of health insurance is embedded in the cost of every American product that we export overseas. In other countries, the government provides the health insurance. It is a government obligation, paid for in taxes. The individual companies do not have to add it to the cost of the car they are selling in the United States. But we do. Every time we produce something in the United States with American workers, covered by health insurance premiums that are going through the roof, the cost of that health insurance is embedded in every product and, frankly, takes away from our competitiveness.

I challenge myself as a Senator here and my colleagues. We cannot escape the responsibility to address this issue honestly, and we cannot escape the reality that the marketplace is now driving health insurance beyond the reach of conscientious businesses that want to protect their employees and labor unions that are trying to stand up for working men and women and of families who, if they are left to their own devices, will find this to be a very cruel alternative when they seek health insurance.

I yield the floor.

#### MEASURE PLACED ON THE CALENDAR—S. 1618

Mr. SANTORUM. Mr. President, I understand S. 1618 is at the desk and is due for a second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 1618) to reauthorize Federal Aviation Administration Programs for the period beginning on October 1, 2003, and ending on March 31, 2004, and for other purposes.

Mr. SANTORUM. I object to further proceedings on the bill.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

The PRESIDING OFFICER. The Senator from Pennsylvania.

#### PARTIAL-BIRTH ABORTION BAN ACT OF 2003—Continued

Mr. SANTORUM. Mr. President, I believe we are now on S. 3, which is the partial-birth abortion bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. SANTORUM. Mr. President, for the information of Members, we will have an hour of debate, a half hour each side, and then we will have a vote at 2:40 this afternoon, followed by a series of five votes on judges.

This is a vote that, candidly, is not necessary. It is a vote that will be 100 to nothing, or as many Senators as are still here to nothing.

It is a vote to get this bill to conference. The House passed one bill. The Senate has passed a different bill. The normal rules are you adopt a motion of disagreement and go to conference. Otherwise, you keep bouncing back and forth to the House and the Senate with a fully amendable vehicle which doesn't get you anywhere.

I am asking all of my colleagues to vote on this procedural matter to get the bill to conference. I will tell you that I fully anticipate the bill coming out of conference within a very short period of time before we recess for the rest of the year. We will have a bill that will pass here overwhelmingly. It will pass in the House overwhelmingly and be signed by the President, which is the objective I think certainly the vast majority of the people in this Chamber would like to see done.

I understand there may be some reasons the Senator from California wanted to have this debate and have this vote. This is probably the only time where all of us will agree on this issue and vote for this resolution and get it to conference. We will then move, hopefully expeditiously, from that point.

I see the Senator from New Jersey is here. I will be happy to yield the floor and allow him time to speak.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, thank you. I thank the Senator from Pennsylvania.

Mr. President, I come to the floor and stand with my good friend, Senator BOXER, and the women across America to express my support for the landmark Roe v. Wade decision and the importance of protecting a woman's fundamental right to choose. I think that really is what the issue is about—not the parliamentary procedures we are talking about. Earlier this year, we marked the 30th anniversary of this critical decision which clearly established a woman's fundamental right to reproductive choice. I strongly support that right. The decision about this dif-

ficult choice for an individual should be made by the woman, her doctor, and her moral counsel and, in my view, not by politicians and not by Government. Simply put, I trust the women of America to make their own health and moral decisions without the intrusion of Government. I think that is what Roe v. Wade indicates.

Having said that, I recognize women and men of good faith can and will reach different conclusions about this difficult moral question involved in the debate. But Roe v. Wade is the law of the land. I am very troubled by this administration's—and frankly Congress's—attempts to undermine that basic right by that decision. Whether it is through the so-called partial-birth abortion bill, reduced access to family planning, efforts in redefining the legal status of fetuses, or far-right traditional nominations, this administration and this Congress are constantly knowingly chipping away at women's fundamental freedoms.

That is why I was pleased when, in the context of the so-called partial-birth bill, the Senate adopted the Harkin resolution expressing support for Roe v. Wade, which is what the debate is about today.

First, let me make clear I oppose the underlying bill, and I still do. I believe the bill is unconstitutional, and it doesn't take into account the health of the woman that the Supreme Court requires. Its practical effect would be to deny women access to some of the safest procedures at all stages. That said, with the Harkin amendment included, I was at least partially satisfied that the Senate has reaffirmed the importance of Roe v. Wade.

Again, the reason we are having this debate is to make sure our conferees are embracing something we supported here in an open vote on the floor of the Senate. All of us know the House has stripped away the resolution affirming Roe, laying bare, in my view, the true purpose of the underlying legislation—to undermine Roe and ultimately roll back women's rights.

When Roe v. Wade was decided in January of 1973, abortion, except to save a woman's life, was banned in two-thirds of the States, including my home State of New Jersey. Roe rendered these laws unconstitutional, making abortion services safer and more accessible to women throughout the country—not just to a select few—and certainly on a safe basis. Many of these statutes are still on the books waiting for an anti-choice majority in the Supreme Court to overrule Roe.

I hope my colleagues will think long and hard about the implications of forsaking Roe. We need to be very careful to avoid returning to a period in which abortion was illegal and when the only choice women had was to seek illegal and unsafe abortions—particularly when economic position determined who had a safe choice. In those days, thousands of women died each year as a direct result of the abortion ban. In

fact, 17 percent of all deaths due to pregnancy and childbirth were the result of illegal abortions. It would be tragic if we return to those days and forget the lessons of history.

The Supreme Court itself in 1992 noted that in addition to improving women's health, Roe has enabled women to control their reproductive lives, and thus "participate equally in the economic and social life of the Nation." Justice Harry Blackmun, the author of Roe, called his decision "a step that had to be taken as we go down the road towards a full emancipation of women." That is a pretty straightforward sentence that I think most Americans believe in.

If we are really interested in reducing the number of abortions in this country, we should ensure that women have access to the full array of family planning services, including prescription, contraception, emergency contraception, and prenatal care. We should also support expansion of comprehensive sex education. That is the way to deal with this problem as opposed to putting it into the dark alleys and off of the front pages.

Every week 8,500 children in our country are born to mothers who lack access to prenatal care. Too many of these children are born with serious health problems because their mothers lacked adequate care during their pregnancy. As a result, 28,000 infants die each year in the United States. That is the real tragedy. We ought to act immediately to address this issue by expanding access to prenatal care, as several of my colleagues and I have proposed, to start helping them stay healthy. What we should not do, however, is pass legislation we know is unconstitutional and which would ban a common and safe form of abortion at all stages of pregnancy, and which would increase maternal mortality—all without improving the health of a single child.

We also should not forget Roe v. Wade is still the law of the land, despite this administration's seizing opportunity after opportunity to undermine it. Unfortunately, though, Roe hangs by a thread, and the retirement of one Supreme Court Justice could mean a change and the demise of Roe v. Wade.

That is why it is absolutely essential for this Senate to affirm the importance—and indeed the very validity—of Roe v. Wade. That is why it is important for the Senate to oppose the House stripping of the Harkin resolution, which is what we are debating.

It is time for us to make sure we stand firm on what we believe in so strongly. I think there is a lot we can do to prevent unintended pregnancies. That is where we ought to be putting our efforts—not undermining Roe v. Wade.

I yield the floor.

Mrs. BOXER. Mr. President, will the Senator yield for a question?

Mr. CORZINE. Certainly.

Mrs. BOXER. Mr. President, what time remains at this point?

The PRESIDING OFFICER. The Senator from California controls 22½ minutes. The Senator from Pennsylvania controls 28 minutes.

Mrs. BOXER. I just wanted to thank my friend very much, through the Chair, for coming over. I know it is a very hectic day for all of us. I appreciate the fact that several of my colleagues have come to the floor to speak about this.

The Senator's point is quite eloquent; that is, affirming Roe, saying this decision was the right decision and what this Senate ought to do.

Further, what we ought to be doing instead of outlawing procedures without making exception for the health of the woman, we ought to be moving forward aggressively with family planning. We ought to be helping poor children and poor families.

I find very interestingly the very people who want to have the court overturn Roe, say that Roe is a bad decision, and the Government should decide what women should do with their own bodies are the ones we cannot get to support us on family planning and on helping poor kids. It is a very odd set of circumstances to me when I see an elected official say we should ban abortion because it is wrong from minute 1. We should ban abortion, force women to have these children at the earliest stages, not let them decide but have the Government decide, and then turn our backs on the children once they are born.

I ask my friend if he does not see an irony here?

Mr. CORZINE. There clearly is. The Senator from California recognized that. First, there are positive steps that can truly lift up and help children across the country, across the world, frankly, including more thoughtful planning processes. But more importantly, we are taking a decision away from individuals, which is the most private, the most moral, the most important decisions they can take, and saying we know best. I have a very hard time understanding how that fits with other philosophies that I hear at times expressed.

I know this is a difficult decision for every individual. They have to struggle with that in their own lives. There is no way, in my view, that we should be moving to have Government make that decision when, in fact, the individual, doctor, and people's moral counsel are the places where that decision lies.

I appreciate the Senator from California and her effort to make sure such an important and potentially divisive issue in our society, which has been decided by the courts, constitutionally decided by the Court, continues to be reaffirmed by all involved in elective public office.

Mrs. BOXER. I ask my colleague one more question. My colleague has come in favor of the Harkin amendment. I hope we have a very big vote to dis-

agree with what the House did. The House struck the Harkin amendment from the bill. That is a very strong difference the Senate has with the House. We will vote to disagree with what the House did.

I share with my friend the very elegant simple language of the Harkin amendment:

It is the sense of the Senate that:

(1) the decision of the Supreme Court in Roe vs. Wade (410 U.S. 113 (1973)) was appropriate and secures an important right; and

(2) such decisions should not be overturned.

This is a very elegant, simple statement and, by the way, has no force of law. It is simply a sense of this Senate.

Does it not seem to my friend to be an indication of how out of sync the House is on that they would strike this simple sense-of-the-Senate language? If you ask the people, and we have a recent poll—Should Government be involved in the early stages of a pregnancy?—80 percent say, Government, keep your nose out. And the House is so interested in passing this underlying ban on a medical procedure that, by the way, has no exception for health, would the Senator not think they would have just left this in and then there would be no difference between the House and the Senate? As we know from our Government textbooks, when there is no difference, the bill would go right to the President. Does my friend believe that the House leadership, those who struck this language, who pushed striking this language, are out of step with the vast majority of people in New Jersey, people in California, people in this country, 80 percent of whom believe the early stages of pregnancy, this decision should be between a woman, her doctor, her God, and her family, and it is not about Senator CORZINE deciding or Senator BOXER deciding or Senator SANTORUM but rather the women, in consultation with their conscience, their family, their God, their doctor.

Mr. CORZINE. The Senator from California is elegantly stating the case. I certainly have a strong sense that the people of New Jersey believe, the women of New Jersey believe, what the people across the country in the poll numbers that have been suggesting believe: Most Americans thought this issue was resolved once and for all by a very clear decision, tough decision of the Supreme Court, and should stand.

What we are doing by including the Harkin resolution—which is, as the Senator said, very elegant, simple, very straightforward, not the rule of law, the force of law—is very clearly underline something that has been decided by the American people and continues to be supported by the American people. It is important we have this language in the underlying bill which, by the way, as I suggested, I didn't vote for to start with. But I do believe it was made better by this resolution. I implore the Senator from California to continue to speak out with the kind of

elegance and care which gets at one of the most difficult and painful choices and issues we have to deal with in our society.

Since we have resolved this, we should live with it and go forward.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Pennsylvania.

Mr. SANTORUM. To reiterate, this idea that the vast majority of the American public agrees with Roe v. Wade is not correct. Roe v. Wade allows abortion under any circumstances at any time during pregnancy. That is what Roe v. Wade does.

Now, what does the American public say about their position on abortion? According to the Center for the Advancement of Women, a pro-choice activist group doing a survey among women in America—not wording it in a way that will get a conservative or pro-life response, I might add—51 percent of the women in this survey this year, this summer, said they would either ban all abortions or only abortions in the case of rape, incest, and to save the life of the mother—51 percent of women in this country, and this is not inconsistent with other polls.

The idea that 80 percent of the people in America support Roe v. Wade, if you tell people what Roe v. Wade is or ask them their position on abortion and match it up with what Roe v. Wade does, 80 percent of the American public under no survey support what the law is pursuant to Roe v. Wade; 51 percent would take what most people in this Chamber would term the pro-life position, 50 percent of women—that is, no abortions or no abortions except in the case of rape, incest, and to save the life of the mother, which is far less than 1 percent of abortions done in this country: 1.3 million, one-third of all conceptions in America end in abortion.

Additionally, 17 percent say it should be stricter than under current law. What does that mean? That means stricter than under Roe v. Wade. So you have 68 percent of the women saying they disagree—according to a pro-choice advocacy group survey—saying they disagree with Roe v. Wade.

So the suggestion that the House is out of step with America because they do not support language that is not supported by 68 percent of the American public—and I argue it is probably higher than that because the other category is so cloudily worded so as to probably bring in people who would have problems with the absolutism of Roe v. Wade. The idea that 68 percent, at least, of women in this country do not support Roe v. Wade speaks for the wisdom of the House and the centrality of the position that the House took.

A couple other comments about Senator BOXER's statement about rejecting the House's stripping of the Harkin language. The fact is, when you have two different versions that pass both bodies, you go to conference. That is what we do. We do it as a routine. That is what we will do today. This is a rou-

tine procedure vote that simply gets us to conference. I assure my colleagues the bill that will come out of conference will be one that will be very familiar to Members here and will be, I believe, overwhelmingly adopted.

There are another couple points I would like to make.

I spoke earlier on this topic—the Senator from California spoke about it—and that is this idea that Roe v. Wade has saved the lives of women who would otherwise have had abortions illegally and would have died as a result.

The Senator from California states that there were 5,000 women who died per year as a result of illegal abortions prior to Roe v. Wade. I put into the RECORD the facts. The facts at that time, according to the Department of Health and Human Services, the National Center for Health Statistics, which said there were a total of 612 deaths of women who died as a result of complications from pregnancy—total maternal deaths 612: of that, 83 were related to abortion.

If you look at the trend—this chart starts in 1942—the total number of deaths from abortion goes down from 1,200 to 1,100, to 986, to 888, 760, 585, 496, 394, 316, 303. It keeps going down and down and down, all the way up to 1966, 189—160, 133, 132, 128, 99, 83—every year, virtually every year. There are a couple where it goes up maybe one or two and then back down one or two, but the trendline is clear: Because of the improvements in health delivery, the improvements in medicine, we have seen the number of deaths go down, even when abortion was illegal, as well as a commensurate drop in total maternal deaths as a result of pregnancy.

We would expect that trend to continue as health delivery continues. In fact, if you look at the numbers today, in 1998, which is the most recent number available, there were nine women who died from legal abortions. If you would follow this trendline, that is actually higher than what the trendline would suggest, given the trendline over the previous 30 years on this chart.

So the idea that Roe v. Wade is saving all of these lives is false. It is false. The idea that the Senator suggested—she said she was going to put evidence in the RECORD to substantiate the 5,000. We have gotten the information the Senator put in the RECORD. I cannot find anything in those documents that even talks about the number of women killed from abortions prior to 1972. So maybe she handed in the wrong documents. I don't know. But I don't see anything in any of those documents that talks about the number of women who died prior to 1972 as a result of abortion.

The reason is, the only facts we have are the official facts of the U.S. Government. I know the Senator from California said: Well, these women in these statistics were subject to prosecution, criminal sanction, if they had an abortion, so, of course, they wouldn't be reported. What the Senator

from California obviously forgot is these women are dead. So obviously they aren't concerned about criminal sanctions at that point. This is information off the death certificate. So the idea that someone is playing with these numbers or the people are not reporting them because of fear of criminal action is just absurd.

This argument that justifies Roe v. Wade is false. But what is true? The number of abortions in this country has skyrocketed—that is true—and millions of children have died. Millions of children have died as a result of Roe v. Wade.

Is the condition of children better as a result of Roe v. Wade? Is the condition of the family better as a result of Roe v. Wade? The statistics don't prove that out, either. Oh, I remember reading things that were written at the time about how the legal right to an abortion was going to dramatically affect the amount of abuse, domestic violence, and we would see a dramatic drop in domestic violence because children—these problems that we have out there—if you take children out of the relationship—unwanted children—domestic violence will go down. Roe v. Wade will decrease the amount of violence in the house. Not true. It did not happen. It went up.

It was said: Well, it will decrease the amount of violence toward children. You have all these unwanted children out here and as a result parents get violent because they don't want these kids and they are forced to have them. So not only domestic violence will go down but child abuse will go down. False. It more than doubled. Almost immediately, within a few years after Roe v. Wade, it started to go up and dramatically increase.

You can see from every single social indicator that has an impact on women and children and families in America, they have suffered horribly as a result of this “compassionate” decision. The facts just do not work out the way some would have liked them to, so we make up facts.

The Senator said: I am entitled to my facts and she is entitled to hers. Well, I disagree. You are entitled to your opinion; you are not entitled to your own set of facts. The facts are what they are. Make your debate. Make your arguments. As a result of that, I respect you to do that. But the facts are what they are.

These are not my facts. These are the facts of the Federal Government, period. And they do not support the arguments.

The Senator from New Jersey said that somehow or another we are not to make decisions in the Senate that affect the rights of women with respect to carrying a pregnancy to term. I respect that opinion. I disagree with it.

I think it is important we have this debate. The problem, though, is that we really cannot have this debate. See, the problem with the U.S. Supreme Court's decision is that this debate was

truncated in America because the U.S. Supreme Court came in and pulled the debate that was raging across America as to how we are to deal with this very difficult issue—and it is a difficult issue—they just pulled the stakes right up and said: No, we are going to take this incredibly important moral decision, take it out of the hands of the American public, and we are going to decide, we are going to make a new constitutional right, a right to an abortion.

I think everyone would agree, prior to 1973 there was no such right. So they created one in the Constitution—by the way, without having to go through the tortuous exercise of passing a constitutional amendment. They just decided to do it and took away the right of every American—other than them—to decide what the right public policy should be, what the moral public policy should be.

I hear this so often, that Congress should not make moral decisions. Name me one vote we have here that does not have some moral implication. Every single one does, from whom we tax to whom we regulate. There is a moral component to everything we do here. We cannot run from that. My goodness, I hope we do not want to run from it.

But they usurped that authority away from the people of the United States, and now, when those of us get up and question that, we are somehow illegitimate or extreme or somehow not comporting with the law of the land.

Well, I have likened this decision—and I will to do it again—to the Dred Scott case. I refer to *Roe v. Wade* as Dred Scott II because it is exactly the same principle upon which Dred Scott was decided. Dred Scott was decided saying that the rights of a human being were subject to the rights of another person.

The life right, the essential right, the most important right, the right to an existence was subject to the liberty rights of somebody else.

There were people at that time who said: Who are we to make this decision that slaveholders should not have the ability to own slaves? It has been done for centuries. It is in the Bible. How can this be wrong? And who are we to make the decision? We should trust our own conscience. We should trust the conscience of these people to do the right thing. I think that is what the Senator from New Jersey said. That decision should be made between the slave owner, the banker, and the slave. Maybe the slave doesn't get involved; I don't know. What did they say back then? But that is the same debate being made today. We sort of remove ourselves from having any moral overtones: We should not make this decision. Let somebody else make it. I personally may be opposed to slavery, but who am I to tell a slaveholder they shouldn't have a slave? How many times have you heard: I personally

would never own a slave? I personally would never condone abortion?

It is the same issue. The right of life has been subjugated to the right of someone's freedom to do what they want irrespective of that other person's life. That is what slavery was based upon. That is why we look at it now and we say: How could we possibly let that happen?

How could we take the order of liberties put forward in the Declaration of Independence—that you are endowed by your creator with the right to life first and foremost, then liberty, then the pursuit of happiness? Why? Because if you don't have life, you can't have liberty. And if you don't have liberty, you can never pursue your happiness and your dreams. When you put those out of order, it is like pouring acid on the structure of America. It corrodes us. It just eats away at us. And it infects so much else. So much else has been affected by this right to privacy under the Constitution that was created by the Supreme Court. I mean you go on and on and on, these rights that put the liberty rights of some over the life rights of others. What happened to the society that put the rights of others before the rights of us, put the common good before us?

I had the privilege a couple months ago, on July 4, to be at the National Constitution Center opening. I thank my colleagues who supported Federal support for this incredible facility to teach our children about our Constitution. It is three blocks from Independence Hall. It is a magnificent facility, a great interpretive facility that teaches about the essentials of our Constitution.

I was asked to speak at this event and talk about one particular piece of the Preamble to the Constitution. Each speaker got a little piece and, therefore, we were to weave the whole thing together. My piece was "promote the general welfare."

Not having been a great student of the Constitution, I decided I had better read the Preamble again and get an understanding of what this was all about. As I looked at that, I looked up the definition of "preamble." It said: The reason for the document to follow. It gave the reason. Why did we establish, why did we put this Constitution together? The preamble states the why; the Constitution itself is the what. And it struck me, as to all the things that were in the Constitution—establish justice, ensure domestic tranquility, provide for the common defense, secure liberty for ourselves and our posterity—of the five verbs, ensure, establish, provide, and promote, four of the five were active verbs in which the Government was to do something. It was the Government's responsibility to ensure or to establish or to provide, except the one—promote.

The Government's job there was not to do that but to create an atmosphere in which people would do it. Do what? Promote the general welfare. And what

is the general welfare? What was the reason that our Founding Fathers gave us all of these rights and which the Supreme Court now litigates on, the rights in the Bill of Rights, the right to freedom of speech and freedom of assembly and freedom of the press and religion, all of the freedoms, equal opportunity, all of the things that are in this great Constitution of ours?

What was the goal of our Founders in giving individual—because they are by and large not group rights; they are rights of individuals—rights, the general welfare, not the individual welfare, not your personal success, the common good. It was a country designed to be bigger than us. It was not about us. Yes, they gave freedom to us. They gave liberty to us. But the goal was not us. The goal was something lofty, something great. And we are corroding this document into something that is just about us.

The greatest of the corruptions is *Roe v. Wade*. The greatest injustice is *Roe v. Wade*, where it says: I am the law; I decide common good, general welfare—me. I come first.

That is not the vision of the miracle of Philadelphia. That is not the reason this country was established through this Constitution. We had loftier goals. We had greater ideals. We had dreams of what this country could be if we all went out and, yes, pursued our dreams, but we did so in service to others, in building a community, in founding a nation based on morals and laws that respected the rights of others. Oh, how we have slipped, how we have slipped to just thinking about us.

Why is this right in the Constitution so popular among others, particularly the popular culture, the elite culture in this country? Why is it so adamantly defended by the media and those in this elite culture? Because it is about me. It is a culture. Look around you, folks. It is a culture that says: If it feels good, do it. Please yourself. Don't worry about other people. Just do whatever feels good—me, me, me.

Of all the rights in the Constitution, the right to privacy is the "me" right, it is the "me first" right.

If you think about what our Founding Fathers did when they put that Constitution together, they had no intention of creating me-first rights. If you have any question, read the Preamble—the general welfare, the common good. That is what this country is all about, and they knew the best way to get there was to give people the freedom to pursue the truth, to pursue those dreams, to pursue happiness—not hedonistic happiness but true happiness that you find in serving others, in doing things that are bigger than you.

We have lost our way, and there is no better example of how lost we are than this decision. I know there are hard cases out there, and we will hear them, I am sure. We will hear them over and over again, how difficult the decisions are. Having known people who have gone through that decision, I know

how gut-wrenching and terrible and awful these tough decisions are. But I think back to the speech given earlier this year by Condoleezza Rice at the National Prayer Breakfast. She gave a talk I have not heard in this town for a long time. She gave a talk about the importance of suffering. She gave a talk about her ancestors, slaves in America, who had a spiritual hymn, "Nobody Knows the Trouble I've Seen," followed shortly thereafter by the verse: Glory hallelujah.

She said it struck her: How could they be talking about all this suffering and pain and then giving glory to God? She let me understand that God puts you through suffering to perfect you. I don't know too many people in life who learn and grow by having things come easy, being taken care of by somebody else. They learn by the difficult, tough things we all do because we are all sinners, we all make mistakes, and we get ourselves in jams all the time. You learn, you develop character, and you develop who you are by how you deal with that suffering.

I would argue the right to privacy in America has given people an out that is not always in the best interest of them or our society.

This is a tough issue. I reiterate, I respect the other side for their opinion. I just wish the Court would respect my side. I wish the Court of the United States of America would respect the other side of this issue enough to allow us to debate it in America and make a decision based on how America feels about it because that is how democracies and republics are supposed to work. But they have denied you, the American public, and your representatives here the opportunity to do that. My colleague from California wants to keep it that way. I think you deserve better.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, will you give me the time situation, please?

The PRESIDING OFFICER. The Senator from California has 15 minutes 27 seconds, and the Senator from Pennsylvania has 1 minute 2 seconds.

Under the previous order, the Senator from California reserves 10 minutes to close.

Mrs. BOXER. Madam President, will you please notify me when I have 10 minutes remaining?

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mrs. BOXER. Madam President, we are coming to the end of what I think has been a very good debate. I am very hopeful the Senate will vote yes on the motion to disagree with the House. The Senator from Pennsylvania, who is worried about this, has decided everyone is going to vote for it. I say good news. Let the Supreme Court see that while the Senate took up this bill to ban a medical procedure, a medically necessary procedure, it, at the same time, supported a landmark decision

called *Roe v. Wade* that said to the Government: Stay out of people's lives in the very early stages of a pregnancy. It said to the Senators then and to the Senators now: You think you are important, but guess what. You need to respect the people you represent and not interfere in a decision they need to make with their God. I think that is profoundly moral.

What I think is immoral is to take your views, Madam President, or my views or the views of the Senator from Pennsylvania and force them on the people of this country. It is disrespectful, it is not right, and it is not what America is about.

In 1973, the Court said to us: At the early stages of a pregnancy, a woman has this right, but at the later stages of a pregnancy the State can, in fact, ban abortion, as long as the State always respects the life and health of a woman. That was a wise decision, and it has held to this time. There are many people who want to see it overturned. Indeed, the Court is about 5-4 on that decision. A lot hangs on that because this is not some abstract issue. This is a real issue.

The Senator from Pennsylvania challenged me this morning. He said: You keep saying women's health would be harmed if this medical procedure in the underlying bill is banned, but you have no proof.

I don't know what more I can do than what I did this morning, which is to put into the RECORD—and I will reiterate the documents—how many doctors, organizations, how many nurses, how many OB/GYNs said, we are, in fact, opening up the door for women to be harmed, gravely harmed.

Let's put up the chart that shows what we were told by physicians could happen. If this is supposed to be a moral bill, I ask you a simple question: Is it a moral position to outlaw a medical procedure that doctors are telling us is necessary, in many cases, to protect the health of a woman? Is it a moral position to subject a woman to hemorrhages, to uterine rupture, to blood clots, to embolism, to stroke, to damage to nearby organs, such as your kidneys, to paralysis? If that is considered a moral position, then I guess—I just can't see it. I don't see it.

If you don't know, if you do something without knowledge, I cannot say you are immoral. But if you are doing something with knowledge, if you are banning a procedure we know is necessary, and we have doctor after doctor—here is testimony of Vanessa Cullins, vice president of Medical Affairs of Planned Parenthood after years of being a board-certified OB/GYN with a master's degree in public health and business administration. That is her testimony.

We also put in the RECORD the testimony of Anne Davis, M.D. She is a physician who practices in New York. She is board-certified in OB/GYN. She went to Columbia University. She gives us chapter and verse about her belonging

to the American College of OB/GYNs and how they are very worried that these things, and worse, could happen if this bill passes.

Let's face it, this underlying bill is going to pass. For the first time in history, Congress is playing doctor, outlawing a medical procedure that is sometimes necessary to save the life and health of a woman, outlawing that procedure without a health exception, and we are doing it with knowledge and forethought. If you can sleep at night doing it, then that is fine.

The American Medical Women's Association: Please have a health exception.

The American Public Health Association; Physicians for Reproductive Choice and Health. It goes on and on. This letter by Felicia Stewart, who is an OB/GYN in California, was very specific on what could happen. So the bottom line is, if we want to talk about morality, I am ready to talk about morality.

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mrs. BOXER. I will withhold my 10 minutes until after the Senator from Pennsylvania speaks.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, to reiterate, we make moral decisions on this floor every day. We decide what things are legal, what things are illegal. We do so based on a variety of things, but morality is certainly one component of that. The idea that we have no right to pass laws that are moral, then we should eliminate the laws against killing, we should eliminate the laws against rape. Those are all based upon the fact we believe those acts are harmful and immoral and therefore we pass laws to proscribe them.

I do not think we want to kick ourselves out of the business of stopping things that are immoral in this country by passing laws to proscribe them. Believe it or not, some people actually do not do immoral things because there are laws against them.

I suggest that this idea that we have no right to pass moral judgment is the greatest canard that I have heard across this country. I hear it all the time, that we should absent ourselves from this moral debate. It is exactly where this debate should occur.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from California.

Mrs. BOXER. I never said we should not pass laws that stop immorality. I am a champion of those. I am leading a fight right now in the Commerce Committee to stop child kiddy porn. I am sure my friend is going to work with me on it.

Mr. SANTORUM. I will.

Mrs. BOXER. He misunderstood and absolutely misrepresented what I said. What I said is that the underlying bill, which does not make an exception for the health of the woman, is an immoral

bill. I do not think it is a moral bill. I think it is an immoral bill, and the reason I think it is an immoral bill is it makes no exception for the health of a woman, no matter how hard we try. We reached across the party line. We said we want to make an exception for health. Oh, no, women will lie. Oh, no, doctors will lie. We cannot have a health exception. People will lie.

I feel sorry for a woman who finds herself in a circumstance where she is in desperate shape, in a pregnancy gone horribly wrong—and I have met many of them. I have seen their faces, and God bless them because they have come out and given up their privacy to talk about what they have gone through. I feel sorry for the next woman who is lying bleeding on a table and a doctor has to take out this law and say: I am not sure because your life may not be at stake. It may be your health, and if I use this safe procedure I might lose my license, I might go to jail.

Anyone who wants to be party to that, be my guest. Thankfully, across the street there is a Supreme Court, and I think they will find this underlying bill unconstitutional because it is vague and because it does not make an exception for the health of the woman. Even the most rabid anti-choice people are now saying that this bill is surely unconstitutional.

Why do I think the underlying bill is immoral? Because we know a woman could get a hemorrhage, a uterine rupture, blood clots, an embolism, a stroke, damage to her organs, or paralysis if this technique, this medical procedure, is not used in certain very serious cases.

So, oh, yes, I support laws that are moral. My colleague is absolutely correct, there is morality in everything we do. When we go after corporate abuse, when we go after criminals who because of insider trading, for example, make an illegal profit, I am going after them. That is a moral issue. Weapons of mass destruction, that is a moral issue. A new generation of nuclear bombs, that is a moral issue. Abortion is a moral issue. You bet it is.

I believed that the Roe v. Wade decision in 1973 took a moral stand and found that they have to balance the rights of all involved. My friend says, and I am going to quote him now, "Our society is corroding."

Well, I do not believe that I am corroding because I am pro-choice. I do not believe the people in the Senator's State who are pro-choice are corroding. I do not believe that the people of this country who believe that politicians ought to stay out of their private lives in the early stage of a pregnancy are corroding. I think they are struggling with a tough issue.

My friend said this morning that I was wrong, that 5,000 women did not die. I put a cite into the RECORD. I now have a book by Richard Schwartz, assistant professor in the Department of Obstetrics and Gynecology School of

Medicine, University of Pennsylvania. He was the chief of the section there. This is an old book from 1968 in which he says:

It has been estimated that as many as 5,000 American women die each year as a direct result of criminal abortion. The figure of 5,000 may be a minimum estimate inasmuch as many such deaths are mislabeled or unreported.

As I said to my friend this morning, he said the CDC said only 85 women died of illegal abortions. Well, people did not come forward. Families did not come forward. Doctors did not come forward.

This was a crime. He has in his own State a great university, and one of the leaders of the School of Medicine there has written this. I ask unanimous consent that this excerpt from the book be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### SEPTIC ABORTION

(By Richard H. Schwarz, M.D.)

#### SCOPE OF THE PROBLEM

It has been estimated that as many as 5,000 American women die each year as a direct result of criminal abortion. The figure of 5,000 may be a minimum estimate, inasmuch as many such deaths are mislabeled or unreported. Most studies also indicate that up to 1,200,000 illegal abortions are performed annually or—otherwise stated—that one pregnancy in five in this country is illegally terminated. Hellegers challenged these figures and suggested that there are more likely 200,000 abortions and 800 deaths annually. Although much smaller, these figures still represent a significant wastage. With the striking reduction in the general, maternal death rate, however, septic abortion has become a leading cause of maternal deaths. In Philadelphia over 50 per cent of the maternal deaths result from complications of abortion, and this fact apparently holds true in other areas of the country: Stevenson reports 57 per cent in Michigan; Hellman, 33 per cent at the Kings County Hospital in Brooklyn; and Fox, 28 per cent in California.

During recent years at the Philadelphia General Hospital, where deliveries averaged between 4,000 and 5,000 per year, there have been, rather consistently, 800 to 1,000 abortions annually. One can readily see that this exceeds the expected spontaneous abortion rate. Periodic reviews of patients admitted with incomplete or inevitable abortions indicate that at least one third of these women can be classified as septic at the time of admission to the hospital. During the 12-year period between January 1, 1954 and December 31, 1966, a review of slightly over 12,000 abortions revealed 29 deaths. Twelve fatalities were caused by septic shock, five by ruptured postabortal abscess, two by staphylococcal septicemia and two by tetanus. Therefore, 21 of the total of 29 deaths, were caused by infection.

Mrs. BOXER. Another point of debate about how many women died, whether it is 85, 89, 100, 5,000, or as Dr. Schwartz says, probably much more, one death from an illegal abortion is too many.

Those of us who remember back to those days remember that, and that is why the Harkin amendment is so important because the Harkin amendment simply said we strongly support Roe. We do not think it ought to be

overturned. I am very hopeful that every Republican and every Democrat today will vote to support Roe in this motion to disagree.

My colleague says it is just a routine voice vote. No, it is not. It is a vote on substance. That is why we have been arguing it. If it was such a routine, just a go-to-conference vote, I do not think he would have been arguing against Roe. If he wants to argue against Roe and then vote for Roe, that is great with me because we are sending that right over to the Court, and they will see that the Senate stands firmly in favor of Roe.

There are certain problems in our country that we thought we solved. One of them was this problem because when Roe v. Wade was heard, we did have thousands of women dying, and thousands more being made infertile. We all knew the stories. We all lived through those times. Roe said something had to be done about it. What they decided to do is balance all the interests.

Let us show what Roe says, because it is, in my opinion, such a moderate decision that balanced all of the interests and why it has been supported for so many years. What they say is that after viability:

... the State in promoting its interest in the potentiality of human life may, if it chooses, regulate and even proscribe—

that means ban—

abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

I believe people who come to this floor and talk about morality, that is their right to do it. If they want to say they are more moral than someone else, that is their right. I do not have a problem with that. But what the Court did back in 1973 has said this is a tough issue. We have to look at everything. What they decided is instead of women running to a back-alley abortionist and paying cash under the table and risking their life by bleeding to death, becoming infertile and all of that, that in the early stages of a pregnancy, before the fetus could live outside the womb, that a woman has this right to choose.

I have to say, if we go back, and we could go back—it all depends on who is in this Senate, who is sitting in the President's seat, who is over in the Court. That is all that is riding on. It is very clear. If we go back, we are going to go back to the days that were not good for women and were not good for families. Do you know what. They were not good for anyone.

The beauty of being pro-choice and being in favor of Roe is that we respect everyone's opinion, not only by just standing here and saying, I respect the Senator, I respect the Senator—that is all fine. I respect my constituents. That means I trust them to make a judgment. That is the foundation of Roe—balancing all the interests; saying, at the early stages, keep the big nose of Uncle Sam and the Government out of private lives.



Some people find that privacy ruling distressing. I think it said: Do you know what. This is a great country because we respect our people. We are not an oppressive government like China. We are not an oppressive government like Romania certainly was. We don't force our people to have children. And we don't force them to have abortions. We trust them to think about what they want to do in such a situation.

I am extremely hopeful that in one moment from now we will have a big vote, a big vote to disagree with what the House did when they callously stripped out the Roe language that Senator HARKIN put in.

I hope it is a big vote. I cannot wait to see the vote because we are going to make sure the Supreme Court understands that we still stand for the life and health of the woman.

The PRESIDING OFFICER. All time has expired.

Mrs. BOXER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to disagree to the House amendment. The clerk will call the roll.

Mr. MCCONNELL. I announce that the Senator from Utah ( Mr. HATCH) is necessarily absent.

I further announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

I further announce that if present and voting the Senator from Utah (Mr. HATCH) would vote "yea".

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 351 Leg.]

#### YEAS—93

|           |           |             |
|-----------|-----------|-------------|
| Akaka     | Chambliss | Feingold    |
| Alexander | Clinton   | Feinstein   |
| Allard    | Cochran   | Fitzgerald  |
| Allen     | Coleman   | Frist       |
| Baucus    | Collins   | Graham (SC) |
| Bayh      | Conrad    | Grassley    |
| Bennett   | Cornyn    | Gregg       |
| Biden     | Corzine   | Hagel       |
| Bingaman  | Craig     | Harkin      |
| Bond      | Crapo     | Hollings    |
| Boxer     | Daschle   | Hutchison   |
| Breaux    | Dayton    | Inhofe      |
| Brownback | DeWine    | Inouye      |
| Bunning   | Dodd      | Jeffords    |
| Burns     | Dole      | Johnson     |
| Byrd      | Domenici  | Kennedy     |
| Campbell  | Dorgan    | Kohl        |
| Cantwell  | Durbin    | Kyl         |
| Carper    | Ensign    | Landrieu    |
| Chafee    | Enzi      | Lautenberg  |

|             |             |           |
|-------------|-------------|-----------|
| Leahy       | Nelson (NE) | Shelby    |
| Levin       | Nickles     | Snowe     |
| Lincoln     | Pryor       | Specter   |
| Lott        | Reed        | Stabenow  |
| Lugar       | Reid        | Stevens   |
| McCain      | Roberts     | Sununu    |
| McConnell   | Rockefeller | Talent    |
| Mikulski    | Santorum    | Thomas    |
| Murkowski   | Sarbanes    | Voinovich |
| Murray      | Schumer     | Warner    |
| Nelson (FL) | Sessions    | Wyden     |

#### NOT VOTING—7

|             |           |       |
|-------------|-----------|-------|
| Edwards     | Kerry     | Smith |
| Graham (FL) | Lieberman |       |
| Hatch       | Miller    |       |

The motion was agreed to.

Mrs. FEINSTEIN. I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate agrees to the request for a conference.

#### ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, in the unanimous consent agreement, we now have a series of five votes on judges. I ask unanimous consent that those votes be 10 minutes each in duration.

Mrs. BOXER. Reserving the right to object, and I will not object, except to say I hope the Senate notes we had a 93-to-0 vote in favor of the Harkin amendment on Roe, and we hope our conferees will fight hard to keep that language in this bill.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXECUTIVE SESSION

#### NOMINATION OF R. DAVID PROCTOR, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and consider Executive Calendar No. 352, which the clerk will report.

The legislative clerk read the nomination of R. David Proctor, of Alabama, to be United States District Judge for the Northern District of Alabama.

The PRESIDING OFFICER. There are 2 minutes of debate equally divided on this nomination.

Who yields time?

The Senator from Alabama.

Mr. SESSIONS. Madam President, I am delighted that David Proctor is moving forward, as I believe three other nominees are from New York. David Proctor was an outstanding student in his undergraduate studies at Carson Newman College. He served on the Law Review at the University of

Tennessee. He was at the top of his class in law school. He clerked for Judge Emory Widener on the Fourth Circuit Court of Appeals.

He was a member of one of Alabama's largest and most prestigious law firms, Sirote & Permutt. And then he formed his own firm: Lehr, Middlebrooks, Price & Proctor.

He is a lawyer's lawyer, a practitioner who is in court on a regular basis, a man of great integrity and ability. I believe he is going to be a terrific Federal judge. He wants more than anything to give his life to serving the law. I think he will do that. It is a great honor for me to support his nomination.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I support the nominee who has been addressed by the Senator from Alabama.

I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Madam President, I am pleased today to speak in support of R. David Proctor, who has been nominated to the United States District Court for the Northern District of Alabama.

Mr. Proctor graduated with honors from the University of Tennessee College of Law in 1986. Following his graduation, he clerked for the Honorable Emory Widener Jr. on the U.S. Court of Appeals for the Fourth Circuit.

Mr. Proctor next entered private practice with the law firm of Sirote & Permutt, first as an associate and then as a partner. He left Sirote in 1993 to become a partner at Lehr, Middlebrooks, Price & Proctor, where he currently practices law. He specializes in labor, employment and civil rights law, representing employers and public sector entities ranging from Fortune 500 companies to small businesses. Furthermore, he has authored numerous articles on employment law. In recent years, Mr. Proctor has augmented his litigation practice with mediation.

I would like to share with my colleagues a letter sent to the committee in support of Mr. Proctor's nomination by Alex Newton, a partner in the Birmingham law firm of Hare, Wynn, Newell and Newton. Mr. Newton is a self-described "lifelong active Democrat." He has known Mr. Proctor since the beginning of his legal career and highly recommends him to the bench. He writes that Mr. Proctor has "broad experience . . . as an attorney. He is energetic, personable and blessed with absolute integrity. As a judge, I have no doubt he would rule without being influenced by race, creed, wealth or poverty of the litigant before him. He would serve . . . with distinction."

As this letter attests, Mr. Proctor is an experienced attorney who will be an